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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 PARIS WINSTON STEWART,

11 Defendant.

Case No. CR07-211RSL

ORDER GRANTING IN PART
DEFENDANT'S MOTION TO
REDUCE SENTENCE

12
13 This matter comes before the Court on Defendant's 18 U.S.C. § 3582(c)(2)
14 "Motion to Reduce Sentence" (Dkt. # 104). Defendant asks the Court to reduce his 84-
15 month sentence to 63 months pursuant to the Fair Sentencing Act of 2010, Pub. L. No.
16 111-220, and Amendment 750 to the United States Sentencing Guidelines. The Court
GRANTS the motion IN PART. Defendant's sentence is reduced to 76 months.

17 **I. BACKGROUND**

18 Defendant pleaded guilty on September 28, 2007, to one count of distribution of
19 cocaine base in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B). Dkt. ## 65, 67, 71. In
20 his plea, he acknowledged and stipulated that he had distributed at least 83.8 grams of
21 crack cocaine. Dkt. # 67. The charge carried a five-year minimum mandatory term.

22 At sentencing, the Court determined that Defendant's drug quantities resulted in a
23 base offense level of 30 under the U.S.S.G. § 2D1.1 Drug Quantity Tables then in effect.
24 Adjusting downward for Defendant's acceptance of responsibility, the Court scored
25 Defendant's net offense level at 27. With a criminal history category of II, Defendant's

1 range under the Guidelines was 78 to 97 months. U.S.S.G. Sentencing Table. Noting
2 that Defendant had involved his son in the trafficking of drugs¹ and had used the home
3 of his disabled sister to sell drugs, the Court sentenced Defendant to an 84-month
4 custodial term. Dkt. # 104-2 at 14–16.

5 **II. DISCUSSION**

6 **A. Eligibility**

7 “As a general matter, courts may not alter a term of imprisonment once it has
8 been imposed.” United States v. Hicks, 472 F.3d 1167, 1169 (9th Cir. 2007). Section
9 “3582(c)(2) creates an exception to this rule by allowing modification of a term of
10 imprisonment if: (1) the sentence is ‘based on a sentencing range that has subsequently
11 been lowered by the Sentencing Commission’ and (2) ‘such a reduction is consistent
12 with applicable policy statements issued by the Sentencing Commission.’” United
13 States v. Wesson, 583 F.3d 728, 730 (9th Cir. 2009); see U.S.S.G. § 1B1.10(a) (the
policy statements).

14 In this case, the parties agree that Defendant satisfies both prongs. Defendant
15 was sentenced pursuant to § 2D1.1, which was amended by Amendment 750 on
16 November 1, 2011. As revised, Defendant’s offense would now score as a 26, resulting
17 in a net offense level of 23. § 2D1.1(c)(7) (providing a base offense level of 26 for a
18 crime involving at least 28 grams of cocaine base but less than 112 grams of cocaine
19 base); § 1B1.10 (“[T]he court shall substitute only the amendments listed in subsection
20 (c) . . . and shall leave all other guideline application decisions unaffected.”). His
21 sentencing range would thus fall to 53 to 63 months, U.S.S.G. Sentencing Table, but the
22 five-year minimum mandatory term would still apply. United States v. Baptist, 646 F.3d
23 1225, 1227–29 (9th Cir. 2011) (per curiam).

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25 ¹ The Court sentenced Defendant’s son earlier that day to a 78-month term, departing
26 downward from the applicable Guidelines range of 100 to 125 months.

1 **B. Discretion**

2 Having determined that Defendant is eligible for a reduction, the Court must
3 consider whether a reduction is “warranted in whole or in part under the particular
4 circumstances of the case.” Dillon v. United States, 130 S. Ct. 2683, 2692 (9th Cir.
5 2010). In doing so, the Court must consider the familiar 18 U.S.C. § 3553(a) factors,
6 § 3582(c)(2), as well as “the nature and seriousness of the danger to any person or the
7 community that may be posed by a reduction in the defendant’s term of imprisonment,
8 and “may consider post-sentencing conduct.” § 1B1.10 cmt. 1.

9 The Court has again considered each of the § 3553(a) figures. And, again, three
10 circumstances remain at the forefront. The first is Defendant’s involvement of his son in
11 his offenses. As the Court told Defendant at sentencing, “that is a violation of your trust
12 as a parent” that supports greater punishment. Dkt. # 104-2 at 15; see United States v.
13 Salcido-Corrales, 249 F.3d 1151, 1156 (9th Cir. 2001) (“We do not find it improper for
14 a district court to find particularly blameworthy the fact that a parent has brought his
15 child into a criminal enterprise, and to rely on that fact as a basis for an upward
16 departure.”). The second is Defendant’s violation of the trust of his disabled sister, and
17 the third is the need for the sentences to be proportional.

18 These concerns still resonate with the Court. As noted, the Court had departed
19 substantially below the Guidelines in sentencing Defendant’s son. It declined to do that
20 in Defendant’s case, making the point that Defendant bore a great deal of responsibility
21 for his son’s predicament and was thus deserving of a higher sentence.

22 Still, the Court recognizes that Defendant has shown both a desire and an intent
23 to break with his past. He has completed several drug education programs, has been
24 promoted to lead cook at Camp Sheridan, and has been studying for his general
25 education diploma. Dkt. # 104-3. The Court hopes that these steps prove to be just the
26 first of many in a successful and happy future life.

Accordingly, on balance, the Court finds that “the particular circumstances of the case” warrant a reduction “in part.” Dillon, 130 S. Ct. at 2692. The Court exercises its discretion to reduce Defendant’s sentence to 76 months.

III. CONCLUSION

For all of the foregoing reasons, Defendant's motion is GRANTED IN PART. Pursuant to § 3582(c)(2), Defendant's imposed sentence of imprisonment is reduced to 76 months. The Court directs Defendant to provide chambers with an amended judgment order form reflecting this change.

DATED this 22nd day of March, 2012.

Mr S Casnik

Robert S. Lasnik
United States District Judge